

Our File No.: MSX 302RJ

SUPPLEMENTAL DECLARATION FOR PATENT APPLICATION
English Language Declaration

As a below-named inventor, I hereby declare that:

My residence, mailing address, and citizenship are as stated below next to my name.

Neither the patent underlying the present reissue application, U.S. 5,819,950, nor the present application, is assigned to any entity.

I believe that I am the original, first, and sole inventor (if only one name is listed below) or an original, first, and joint inventor (if plural names are listed below) of the subject matter that is claimed and for which a patent is sought on the invention entitled: PORTABLE TROMMEL

the specification of which

 X was filed on October 12, 2000 as U.S. Patent Application Serial No. 09/687,828 and was amended on January 8, 2004, October 21, 2004, May 24, 2005, September 29, 2005, July 31, 2006, and April 6, 2007.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment referred to above.

I acknowledge the duty to disclose information that is material to patentability as defined in 37 C.F.R. § 1.56, including, for continuation-in-part applications, material information that became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I believe original U.S. Patent No. 5,819,950 (the '950 patent) to be partly inoperative or invalid by reason of claiming more than I had the right to claim in the patent.

In the Office action dated December 6, 2006, the examiner rejected claim 1 of the '950 patent as being obvious over the combination of the Re-Tech reference in view of U.S. Patent No. 5,193,971 to Pettijohn and the Cedar Radar reference, but indicated (a) that claim 5 of the '950 patent (which depends from 2, which in turn depends from claim) is allowable, and (b) that claim 6 of the '950 patent (which depends from claim 5) is also allowable. As such, claim 1 of the '950 patent has been amended to incorporate all the elements of claim 5 of the '950 patent, claims 2 and 5 of the '950 patent have been canceled, and claim 6 of the '950 patent has been amended to correct its dependency from claim 5 to claim 1. Amended claim 1, as presented in this reissue application, is therefore identical in scope to claim 5 as it was originally issued in the '950 patent. Likewise, amended claim 6, as presented in this reissue application, is identical in scope to claim 6 as it was originally issued in the '950 patent. Claims 3-4 and 7-22 as presented in this reissue application, all depend from amended claim 1, and therefore have been amended in at least the same manner as claim 1.

At least one error being relied upon to support the present reissue application is that I claimed more than I had a right to claim in claim 1 of the '950 patent, because it would have been obvious to combine the teachings of the Re-Tech, Pettijohn, and Cedar Rapids references cited in the December 6, 2006 Office action to form a portable trommel having all of the elements of the portable trommel recited in claim 1. This error has been corrected by amending claim 1 to include the following additional elements that narrow the scope of claim 1:

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"and further wherein the first lower part of the stockpiling conveyor has a lower end mounted to the chassis for rotation about a vertical axis, to enable the stockpiling conveyor to form an arc-shaped stockpile; wherein the lower end of the first lower part is pivotally mounted to the chassis for motion about a horizontal axis, and wherein the portable trommel includes a body extending upwardly from the chassis and including an upper support bracket providing a support point, with the vertical axis of rotation of the stockpiling conveyor extending through the support point, and wherein a support extends between the support point and the stockpiling conveyor for support thereof."

As discussed above, these additional elements were recited in claim 5 of the '950 patent, which the examiner found to be allowable because it would not have been obvious to combine the teachings of the Re-Tech, Pettijohn, and Cedar Rapids references to form a portable trommel having each of the elements recited in claim 5 of the '950 patent.

This statement of error is not intended to identify all such errors, but is intended to state at least one error being relied upon as the basis for reissue.

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or (f) or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application that designated at least one country other than the United States of America, listed below, and also have identified below any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Claimed?	Certified Copy Attached?

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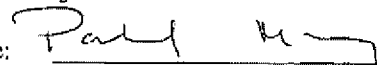
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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon. All errors in the patent which was corrected in the present reissue application, and is not covered by the prior declaration submitted in this application, arose without any deceptive intention on the part of the applicant. Corrections of errors made in all previous papers filed in this reissue application, or errors corrected by a paper filed with this oath/declaration, were made without deceptive intent on the part of the applicant."

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Full name of sole or first joint inventor: James Paschal McCloskey

Inventor's signature:


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